

**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE: Los Angeles District

FILE NUMBER: 2005-00380-RJD

REGULATORY PROJECT MANAGER: Robert J. Dummer **Date:** February 8, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** Y **Date:** February 8, 2005
At the project site (Y/N) N **Date:** _____

PROJECT LOCATION INFORMATION:

State: Arizona

County: Santa Cruz

Center coordinates of site by latitude & longitudinal coordinates: Lat. 31-26-23.7480 Lon. 110-57-49.2840

Approximate size of site/property (including uplands & in acres): 38.55 acres

Name of waterway or watershed: unnamed washes

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash	✓								
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	✓				
Is or would be used as habitat by other migratory birds that cross state lines?	✓				
Is or would be used as habitat for endangered species?			✓		
Is used to irrigate crops sold in interstate commerce?		✓			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary _____ Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The 38.55 acres of railroad right-of-way is located between Interstate Highway 19 and the Santa Cruz River. One jurisdictional unnamed wash and Potrero Creek, which are not isolated, flow through the permit area to the Santa Cruz River, an interstate waterway. Two small unnamed washes flow under I-19 and through a commercial district and are isolated within the right-of-way for the railroad. The railroad directs the flow to the north along the west side of the railroad where all signs of surface flow disappear approximately 1,200 feet before the railroad crosses the Santa Cruz River. The flow in these two small washes is isolated with the water percolating into the ground with no apparent surface flow connection to the Santa Cruz River. The parcel has remnants of native Semidesert Grassland within the right-of-ways but most of the permit area has been disturbed by the railroad. The two washes are isolated with no other signs of supporting interstate commerce.